IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

WRIT PETITION NO : 10352 of 1995

Between:

1 M.Subrahmanyam, S/o. Muna Swamy Nayakar,
R/o. 2-195, Gandlapally(V), Chittoor Dist.
2 P.Loka Nayakee, W/o. late Ponna Swamy,
R/o. 2-195, Gandlapally(V),Chittoor Dist.

..... PETITIONERS

AND

1 The Dist. Collector,
Chittor Dist, Chittor.
2 The Mandal Revenue Officer,
Chittor Dist, Chittor.
3 The Chittor Municipality, rep.by its Commissioner ,
Chittoor Dist, Chittor.

.....RESPONDENS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction declaring the action of the respondents in trying to dispossess from the land of Ac.5-00 gts. in Survey No.1-B of Gandlapally (V) of Chittor district as illegal, null and void.

Counsel for the Petitioner:Mr.A.Srinivas Prasad

Counsel for Respondent No.1 and 2: G.P. for Revenue

Counsel for Respondent No.3 :MR.R.V.CHALAPATHI

The Court made the following ORDER:

Heard learned counsel for the parties.

There is a long history of litigation. This writ petition is filed seeking an injunction restraining the respondents from taking possession of Ac.5.00 of land in survey No.1-B of Gandlapally village of Chittor District. Earlier, it appears that notices under Sections 6 and 7 of the Land Encroachment Act were given to the petitioner, who challenged them by way of a writ petition. That writ petition was dismissed on the ground that there was an alternative remedy available. Thereafter, a writ appeal was filed and also a contempt case was filed before this Court. Contempt case and writ appeal were disposed of by a Division Bench. While disposing of the writ appeal, this Court directed the petitioner to file an appeal before the Commissioner of Land Revenue against the orders dated 15.05.1991. Thereafter, it appears that an appeal was filed before the Commissioner.

Learned Government Pleader submits that the Commissioner has already disposed of the appeal by an order dated 03.05.1997, which is not disputed by the petitioner. In this order, it has been held by the Commissioner that the land is tank bund land belonging to the Government and cannot be assigned and the petitioner is an encroacher. However, the Commissioner noted that since the petitioner had constructed a house over Ac.0.02 cents of land, his case might be considered for allotment to the maximum extent of Ac.0.05 cents on

payment of market value. Since an order has been passed by the Commissioner, no further orders can be passed in this writ petition and this writ petition, in fact, has become infructuous.

The writ petition is accordingly dismissed. No order as to costs.

04.11.2004

ksld

To

1 The Dist. Collector,
Chittor Dist, Chittor.
2 The Mandal Revenue Officer,
Chittor Dist, Chittor.
3 The Chittor Municipality, rep.by its Commissioner ,
Chittoor Dist, Chittor.

4 Two CCs to the G.P.for Revenue, High Court of A.P.(OUT).

5 Two CD copies.